

**LOS ANGELES COUNTY DISTRICT ATTORNEY
CHARGE EVALUATION WORKSHEET**

Page 1 of 12

X FELONY MISDEMEANOR	AGENCY NAME LASD - INTERNAL AFFAIRS AGENCY FILE NO. (DR OR URN) 910-00058-2003-441		DA CASE NO. 31604626 DA OFFICE CODE J.S.I.D. #11-0131R		DATE 06/29/2011 VICTIM ASSISTANCE REFERRAL <input type="checkbox"/> YES - NOTIFY VWAP <input type="checkbox"/> NO	

SUSP NO.	SUSPECT				CHARGES			
					CODE	SECTION	OFFENSE DATE	REASON CODE
1	NAME (LAST, FIRST MIDDLE)) ANDRADE, ALFONSO				PC	245(A)(1)	12/10/2010	B
	DOB SEX (M/F) BOOKING NO. VIP -- Yes X No M							
	Gang Member Name of Gang Victim Gang Member Name of Gang:							
	Victim Name: Victim DOB:							
2	NAME (LAST, FIRST MIDDLE)) DELGADO, HERNAN				PC	245(A)(1)	12/10/2010	B
	DOB SEX (M/F) BOOKING NO. VIP -- Yes X No M							
	Gang Member Name of Gang Victim Gang Member Name of Gang:							
	Victim Name: Victim DOB:							
3	NAME (LAST, FIRST MIDDLE)) GONZALES, JOSEPH				PC	245(A)(1)	12/10/2010	B
	DOB SEX (M/F) BOOKING NO. VIP -- Yes X No M							
	Gang Member Name of Gang Victim Gang Member Name of Gang:							
	Victim Name: Victim DOB:							

Comments
 SEE ATTACHED.

COMPLAINT DEPUTY (print) FERNANDO GUZMAN/ap	COMPLAINT DEPUTY (SIGNATURE) 	STATE BAR NO. 134362	REVIEWING DEPUTY (SIGNATURE) Sergio Gonzalez
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I have conveyed all relevant information to the above-named Deputy District Attorney to be used in consideration of a filing decision.

FILING OFFICER (PRINT): SCOTT CRAIG FILING OFFICER (SIGNATURE): _____ SERIAL #: 265024

DEPARTMENT OF JUSTICE REASON CODES (FORM 8715) A. Lack of Corpus B. Lack of Sufficient Evidence C. Inadmissible Search/Seizure	D. Victim Unavailable/Declines To Testify E. Witness Unavailable/Declines to Testify F. Combined with Other Counts/Cases G. Interest of Justice	H. Other (Indicate the reason in Comments section) I. Referred to Non-California Jurisdiction J. Deferred for Revocation of Parole K. Further Investigation	L. Prosecutor Pending Deferral DISTRICT ATTORNEY'S REASON CODES M. Probation Violation filed In lieu of N. Referred to City Attorney for Misdemeanor Consideration
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LAST NAME: ANDRADE

FIRST NAME: ALFONSO

DA CASE NUMBER: 31604626

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SUSP NO.	SUSPECT	CODE	SECTION	OFFENSE DATE	REASON CODE
4	NAME (LAST, FIRST MIDDLE)) HERNANDEZ, CHRISTOPHER	PC	245(A)(1)	12/10/2010	B
	DOB	SEX (M/F) M	BOOKING NO.	VIP -- Yes X No	
	Gang Member Name of Gang			Victim Gang Member Name of Gang:	
	Victim Name:			Victim DOB:	
5	NAME (LAST, FIRST MIDDLE)) NAVARRO, JUAN	PC	245(A)(1)	12/10/2010	B
	DOB	SEX (M/F) M	BOOKING NO.	VIP -- Yes X No	
	Gang Member Name of Gang			Victim Gang Member Name of Gang:	
	Victim Name:			Victim DOB:	
6	NAME (LAST, FIRST MIDDLE)) RIVERA, JEFFREY	PC	245(A)(1)	12/10/2010	B
	DOB	SEX (M/F) M	BOOKING NO.	VIP -- Yes X No	
	Gang Member Name of Gang			Victim Gang Member Name of Gang:	
	Victim Name:			Victim DOB:	

Comments
 SEE ATTACHED.

COMPLAINT DEPUTY (print) FERNANDO GUZMAN/ap	COMPLAINT DEPUTY (SIGNATURE) 	STATE BAR NO. 134362	REVIEWING DEPUTY (SIGNATURE)
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LAST NAME: HERNANDEZ

FIRST NAME: CHRISTOPHER

DA CASE NUMBER: 31604626

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FILING OFFICER (PRINT): SCOTT CRAIG

FILING OFFICER (SIGNATURE):

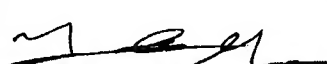
SERIAL #: 285024

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SUSP NO.	SUSPECT	CODE	SECTION	OFFENSE DATE	REASON CODE
7	NAME (LAST, FIRST MIDDLE)) RODRIGUEZ, MAURICIO	PC	245(A)(1)	12/10/2010	B
	DOB M	SEX (M/F) M			
	BOOKING NO. VIP -- Yes X No				
	Gang Member Name of Gang Victim Name:	Victim Gang Member Name of Gang: Victim DOB:			
8	NAME (LAST, FIRST MIDDLE)) SNYDER, JASON	PC	245(A)(1)	12/10/2010	B
	DOB M	SEX (M/F) M			
	BOOKING NO. VIP -- Yes X No				
	Gang Member Name of Gang Victim Name:	Victim Gang Member Name of Gang: Victim DOB:			
9	NAME (LAST, FIRST MIDDLE)) (Empty)				
	DOB (Empty)	SEX (M/F) (Empty)			
	BOOKING NO. VIP -- Yes -- No				
	Gang Member Name of Gang Victim Name:	Victim Gang Member Name of Gang: Victim DOB:			
Comments SEE ATTACHED.					
COMPLAINT DEPUTY (print) FERNANDO GUZMAN/ap		COMPLAINT DEPUTY (SIGNATURE) 		STATE BAR NO. 134362	REVIEWING DEPUTY (SIGNATURE) (Empty)

I have conveyed all relevant information to the above-named Deputy District Attorney to be used in consideration of a filing decision.

FILING OFFICER (PRINT): SCOTT CRAIG

FILING OFFICER (SIGNATURE):

SERIAL #: 265024

DEPARTMENT OF JUSTICE REASON CODES (FORM 8715) A. Lack of Corpus B. Lack of Sufficient Evidence C. Inadmissible Search/Seizure	D. Victim Unavailable/Declines To Testify E. Witness Unavailable/Declines to Testify F. Combined with Other Counts/Cases G. Interest of Justice	H. Other (Indicate the reason in Comments section) I. Referred to Non-California Jurisdiction J. Deferred for Revocation of Parole K. Further Investigation	L. Prosecutor Prefiling Deferral <u>DISTRICT ATTORNEY'S REASON CODES</u> M. Probation Violation filed in lieu of N. Referred to City Attorney for Misdemeanor Consideration
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LAST NAME: RODRIGUEZ

FIRST NAME: MAURICIO

DA CASE NUMBER: 31604626

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of criminal allegations that off-duty Los Angeles Sheriff's Department (LASD) Deputies Alfonso Andrade, #527109, Hernan Delgado, #517741, Joseph Gonzales, #536467, Christopher Hernandez, #526297, Juan Navarro, #525092, Jeffrey Rivera, #523974, Mauricio Rodriguez, #454049, and Jason Snyder, #512499, assaulted off-duty Deputies Elizario Perez, Christian Vasquez, and Sussie Ayala, in violation of Penal Code section 245(a)(1). For the reasons set forth below, this office declines to initiate criminal proceedings.

The following analysis is based on reports prepared by the Los Angeles Sheriff's Department (LASD) submitted to this office by Sergeant Scott Craig, LASD Internal Criminal Investigations Bureau (ICIB). Deputies Andrade, Delgado and Hernandez were interviewed during this investigation. The transcripts of these interviews were reviewed. Departmentally compelled statements, if they exist, were not reviewed.

INTRODUCTION

On December 10, 2010, LASD Men's Central Jail (MCJ) hosted a Christmas party at the Quiet Cannon banquet facility, in the City of Montebello. Approximately 106 MCJ employees and guests attended the event.¹

At approximately 11:10 p.m., Christian Vasquez became involved in an argument with several other off-duty deputies. Elizario Perez intervened and attempted to escort Vasquez away. Perez and Vasquez allege that they were assaulted by Alfonso Andrade, Hernan Delgado, Joseph Gonzales, Christopher Hernandez, Juan Navarro, Jeffrey Rivera, Mauricio Rodriguez and Jason Snyder.²

Several deputies intervened and stopped the fight. Sussie Ayala confronted some of the deputies involved. She alleges that she was struck in the face by Andrade.³

FACTUAL ANALYSIS

Several Montebello Police Department (MPD) officers responded to the Quiet Cannon in response to a 9-1-1 call. They were told by several off-duty LASD deputies, including Vasquez, that the situation was under control and their help was not needed. They left the area without questioning anyone in depth.

The day after the incident, LASD MCJ Sergeants Ponce de Leon and Gonzalez interviewed both Perez and Vasquez. On December 14, 2010, Perez and Vasquez went to MPD and reported they were assaulted. They were interviewed by MPD Corporal Yap. On December 27, 2010, Perez and Vasquez were interviewed by LASD ICIB Sergeants Craig and Matthews.

¹ All persons involved were off-duty deputies unless otherwise noted.

² The injuries to Perez and Vasquez were described as bruises, abrasions and muscle strain.

³ Ayala had no notable injury.

Deputy Ayala was interviewed by LASD ICIB Sergeants Craig and Fujino on December 20, 2010. A follow-up interview was conducted by Sergeants Craig and Matthews on January 6, 2011.

Statements of Deputy Elizario Perez

Perez initially stated that he observed Vasquez having a heated conversation with several deputies on the stairwell outside of the banquet room. He attempted to pull Vasquez away from the group but was grabbed by Delgado who attempted to throw him to the ground. Perez was able to maintain his balance and was held against the railing by Delgado.

While being held, Perez saw Andrade and Rivera strike him in the face several times. Perez also saw that he was being struck by Rodriguez and Gonzales. When he was finally able to break free from Delgado, he saw that Rodriguez, Gonzales and other deputies were assaulting Vasquez.

Perez' statement to MPD Corporal Yap differed markedly from his initial statement to Sergeants Ponce de Leon and Gonzalez. When Delgado tried to throw him to the ground Perez "punched" Delgado in the nose with his left fist. He could not recall if Delgado struck him first. Within one to two seconds the others began striking Perez.

Early in this interview Perez stated that he saw Delgado, Navarro and Rivera striking him, but he was unsure if Andrade, Hernandez and Rodriguez struck him. Later in this same interview Perez stated that he saw Andrade, Delgado and Rivera strike him, but he did not mention Navarro. He felt that he was being struck by other unseen persons from the rear. When asked if he was sure that all of these deputies were involved, Perez responded "they were there."

After being struck by the group approximately 16 times, he managed to separate himself from them. He walked down to the bottom of the stairs. Delgado resumed the attack three more times with Delgado and Perez striking each other.

During this interview Perez stated that he did not see Vasquez getting assaulted. However, he saw Ayala arguing with Gonzales, resulting in Gonzales pushing Ayala. He stated that Ayala tried to fight Gonzales, and then paraphrased "well defend herself."

Perez added that he maintained his footing during the incident and never went to the ground. He was never kicked by any assailant.

Perez' third statement, made to Sergeants Craig and Matthews contained additional inconsistencies. When Perez tried to pull Vasquez from the group, Delgado spun Perez around stating "Don't touch my fucking partner." Perez punched Delgado in the nose

first. They each punched each other approximately five times when the others began striking Perez.⁴

Perez saw Andrade, Delgado and Rivera striking him. He could see the shirt sleeves belonging to Gonzales and Navarro striking him from behind, although he could not see their faces. He did not see Hernandez or Rodriguez strike him, but assumed they did since they were there. During the assault Perez grabbed Delgado's shirt.

Statement of Deputy Hernan Delgado

Delgado was interviewed on February 2, 2011, by Sergeants Craig and Matthews. Delgado stated that Vasquez approached Andrade, Navarro, Snyder and himself and asked to speak to them on the mid-landing of the staircase, away from the command staff. Vasquez stated "I run visiting, I'm the shot caller" in a confrontational manner.⁵ When Rivera joined the group, Vasquez stated "Who the fuck are you?"

Perez bullied his way into the group by pushing people out of the way. Delgado placed his hands on Perez's shoulders and told him to step back. Perez punched Delgado in the face. Delgado again grabbed Perez's shoulders. Perez punched Delgado in the head and stomach. Delgado fell to the ground.

Rodriguez helped Delgado up. Delgado stumbled to the bottom of the stairs. Perez advanced on Delgado. Delgado pushed him away. Delgado did not strike Perez, nor did he see anyone else strike Perez or Vasquez.

Statements of Other Witnesses Regarding Perez

Well over 200 people were contacted by LASD ICIB investigators to determine if they had any knowledge of the events of December 10, 2010. These included guests at the MCJ party, MCJ employees, guests at a function being held in the room adjacent to the Cannoneer Room,⁶ Quiet Cannon employees, security employees and MPD officers. Six witnesses provided helpful information relevant to the Perez allegation.

Deputy Andrade stated facts consistent with Delgado. He saw Perez pushing people out of the way as Delgado tried to stop Perez by placing a hand on his chest. Perez punched Delgado once in the face causing Delgado's knees to buckle. Delgado grabbed Perez's shoulders to maintain his balance and Andrade moved toward Delgado. Vasquez grabbed Andrade by the throat and Andrade became engaged in a fight with Vasquez.

⁴ Perez indicated on a diagram that the assault began on a flat landing area, half way down the stairs from the banquet room to the ground level.

⁵ Vasquez was presumably referring to the handling of visitors and inmates at MCJ.

⁶ The adjacent party was being hosted in the VIP Room.

Deputy Rene Barragan also saw Perez punch Delgado in the face. Delgado stumbled and went toward Perez. As Barragan went to intervene he saw Perez charging toward Delgado. Barragan assisted in separating the two.

Deputy Hernandez saw Perez swing at Delgado. He assisted in separating the two. Delgado shouted that he had been "sucker punched."

Captain Daniel Cruz saw Perez holding Delgado's necktie.⁷ He could not determine if Perez was trying to strangle Delgado. As Perez held the necktie, Delgado, Snyder and Andrade were striking Perez with their fists.

Sergeant Kristy Criner also saw Perez holding an unidentified man by the necktie. Perez was pulling down on the necktie and "kinda choking him." Perez was punching two other men with his free hand, as they were punching him back. Criner was only able to identify Snyder as one of the two men. She also heard Delgado state that he had been "sucker punched." She described the event as a mutual fight with everyone fighting.

Lieutenant Lamar La Fave saw someone strike Perez approximately four times. He tentatively identified Delgado.

Deputy Ayala stated that she saw Andrade, Delgado and Rivera punching Perez. She did not see if any of the blows actually struck Perez. She also saw Delgado kick Perez at least three times in the mid to lower body.⁸

Statements of Deputy Christian Vasquez

In his initial interview, Vasquez stated that he was approached by three deputies who asked why he was disrespecting them. They began to argue with him and he was attacked. He remembered being thrown to the ground and kicked by several deputies. He knows their faces, but not their names.

During his statement to MPD, Vasquez stated that he walked to the ground level with Andrade, Hernandez, Navarro, Rivera, Rodriguez and an unknown deputy.⁹ As they conversed, Deputy Perez approached him. He suddenly became unconscious. He awoke to find that he was being punched and kicked about the head. Vasquez was unable to identify any of his attackers.

When MPD Officers approached, Vasquez told them that he was fine and did not need their assistance. He admitted that he was intoxicated, having consumed at least ten beers at the party.

⁷ Delgado's necktie was tied around his neck at the time.

⁸ Perez was certain that he was not kicked.

⁹ These deputies were identified by photograph.

Vasquez' third statement was substantially consistent with the others. He was able to identify Andrade, Delgado, Gonzalez and Navarro as being on the landing. Hernandez was at the party, but not on the landing at the time of the assault.

Statement of Deputy Alfonso Andrade

Andrade opined that Vasquez was intoxicated. Vasquez asked Andrade, Delgado and Navarro to accompany him to the mid-level landing. Vasquez asked "Who are the fucken shot-callers?" When Rivera approached, Vasquez stated "Who the fuck are you?" After Perez punched Delgado, Andrade saw Vasquez raise his hands toward Delgado. Andrade placed his hands on Vasquez' chest.

Vasquez placed his hands on Andrade's throat and began choking him. Vasquez placed Andrade in a headlock and began punching him in the head. Andrade placed his arm around Vasquez' waist and punched him twice. Andrade was able to get loose from the headlock and walked to the parking lot having no further physical contact.

Statements of Other Witnesses Regarding Vasquez

Several of the witnesses interviewed stated that they observed a male matching the description of Vasquez being assaulted. Only two deputies, however, were identified as being involved in the confrontation with Vasquez.

Deputy Stephen Bearer saw Vasquez with his arm wrapped around Andrade's neck. Andrade's arm was wrapped around Vasquez' torso. Andrade was telling Vasquez to let go of him. Bearer tried unsuccessfully to separate them. As the crowd was forced down the stairs, Bearer lost sight of them.

Deputy Hernandez saw Vasquez holding Andrade in a headlock. Hernandez pulled Vasquez' arm freeing Andrade. Vasquez fell to the ground. Hernandez went down the stairs with Andrade.

Vicki Harris, wife of Captain Harris, witnessed the assault on Vasquez. She tentatively identified Navarro holding Vasquez in a headlock while other unidentified persons struck Vasquez.¹⁰

Neither Perez nor Ayala saw the altercation involving Vasquez.

Statement of Deputy Sussie Ayala

Ayala stated that she drank three mixed drinks containing whiskey, and a shot of tequila. After the incidents involving Perez and Vasquez were over she walked to the ground level and approached Andrade and Delgado. She asked them why they would "jump" a

¹⁰ She described her level of certainty as "6" on a scale of 1-10.

fellow deputy. Andrade responded "Who the fuck are you bitch? Get the fuck out of here." Andrade then punched her on the chin. Deputy James Sharp placed his arm around her shoulder and escorted her away.

Statement of Deputy Alfonso Andrade Regarding Ayala

Andrade denied having any interaction with Ayala. After the incident with Vasquez, Andrade saw Ayala confronting Delgado and Rivera. Ayala was saying "What the fuck you gonna do?" and "I'm from Compton."

Statements of Other Witnesses Regarding Ayala

Two witnesses who attended the party in the VIP Room saw a male push a female in the face. Both Tina Ojeda and Carmen Estrella were unable to identify either party. No other persons contacted witnessed this event.

Deputy Fernando Luviano saw Ayala screaming after the altercation was over. He grabbed her and told her not to get involved. She screamed at him to let her go. He did so.

Custody Assistant Gabriel Perez described Ayala as hysterical and screaming. Other people were holding her back.

Deputy Hernandez attempted to approach Sergeant Gonzalez after the incident. Ayala became verbally abusive toward him.

Deputy James Sharp observed that Ayala was interfering with a MPD Officer who was attempting to talk to another individual. He approached her and directed her away. She appeared upset, but did not have any apparent injuries. She did not state that she had been struck. Sharp did not see her get hit.

Perez, Vasquez and Ayala were friends who spoke about the events of the evening immediately thereafter. Neither Perez nor Vasquez observed Ayala being struck. However, they were both asked whether Ayala had spoken of the event.

During his MPD interview Perez stated that he saw Deputy Gonzales push Ayala. During his interview with LASD ICIB he stated that he did not see the incident. However, Ayala told him that she was struck by Gonzales and Rivera.

Vasquez stated that he did not observe the altercation involving Ayala. She told him that she was punched by Delgado. Another unidentified deputy then elbowed her.

Further Investigation

Sergeants Weber and Fujino contacted the General Managers of the Hilton Garden Inn and the Quiet Cannon Country Club to obtain all available relevant video. There was no video footage depicting the altercations.

Perez described his injuries as swelling on his left eye and head, a bruise on his ribcage, lacerations on his lower lip and right calf and a small abrasion on his calf. Perez requested a Computed Tomography (CT) scan which revealed no further injuries.

Vasquez described his injuries as a laceration on the bridge of his nose, swollen left eye, lumps on his head, bruising in the left ear and pain in the neck, jaw and back.

Ayala had no notable injury.

Delgado sustained a cut lip and headaches. Several witnesses reported seeing Delgado bleeding from the nose or mouth.

Andrade reported swelling to his left cheek, blurred vision and headaches.

LEGAL ANALYSIS

The mandate of the District Attorney's Office is to determine if, based upon the evidence presented for our review a crime has occurred, and there is sufficient admissible evidence to prove a specific individual guilty of that crime beyond a reasonable doubt. To prove a violation of Penal Code section 245(a)(1), the following elements must be met:

1. The defendant did an act that by its nature would directly and probably result in the application of force to a person;
2. The force used was likely to produce great bodily injury;
3. The defendant did that act willfully;
4. The defendant was aware of facts that would lead a reasonable person to realize that his act by its nature would directly and probably result in the application of force to someone;
5. The defendant had the present ability to apply force to a person; and
6. The defendant did not act in self-defense or in defense of someone else.¹¹

If there is sufficient evidence of self-defense or defense of another, the prosecution bears the burden of proving, beyond a reasonable doubt, that the defense does not apply. *People v. Pineiro* (1982) 129 Cal.App.3d 915, at 920. In other words, the prosecution has the burden to prove a defendant did not act in self-defense or defense of another. *People v. Rios* (2000) 23 Cal.4th 450. The prosecution must disprove self-defense and

¹¹ Calcrim section 875.

defense of another to prove unlawful use of force for assault. *People v. Adrian* (1982) 135 Cal.App.3d 355.

The defendant acted in lawful self-defense or defense of another if:

1. The defendant reasonably believed that he or someone else was in imminent danger of suffering bodily injury or being touched unlawfully;
2. The defendant reasonably believed that the immediate use of force was necessary to defend against that danger; and
3. The defendant used no more force than was reasonably necessary to defend against that danger.¹²

CONCLUSION

The successful prosecution of the assault alleged by Perez would depend upon the credible testimony of Perez. The numerous inconsistencies in his three interviews would cast doubt on his credibility.

His eventual admission that he struck the first blow to Delgado would certainly raise the defense of self-defense. Delgado and three other witnesses saw Perez strike Delgado first. Two witnesses saw Perez pulling Delgado's necktie while they were striking each other.

Other deputies identified by witnesses as striking Perez included Snyder, Andrade and Rivera. Since Perez struck Delgado first and was pulling on his tie, the other deputies were arguably justified in coming to Delgado's defense.

Perez was seen punching the other deputies as well as Delgado. After the parties were separated he was seen charging toward Delgado. Thus, it did not appear that he was attempting to deescalate the altercation.

There is insufficient evidence to prove that Vasquez was assaulted. Vasquez claimed to have no recollection of the event. The only deputy that was reliably identified as being involved in an altercation with Vasquez was Andrade. The only statement describing how that altercation began is that of Andrade. Andrade claimed that Vasquez was the aggressor.

Andrade and two other witnesses stated that Vasquez held Andrade in a headlock while others tried to separate them. Andrade admitted striking Vasquez twice while being held in the headlock.

Vicki Harris' very tentative identification of Navarro appears to be mistaken. Although others were seen punching and kicking Vasquez, they were not identified.

¹² Calcrim section 3470

The successful prosecution of the assault alleged by Ayala would depend on the credible testimony of Ayala. She alleged that she was punched on the chin by Andrade. This report was first made ten days after the event, when she was interviewed by LASD ICIB investigators. There were no witnesses who were able to identify the aggressor or the victim.

Ayala stated that after she was struck she was comforted by Deputy Sharp. Sharp denied seeing Ayala get hit, and stated that she failed to mention it. He only approached her because she was interfering with the MPD investigation.

Perez stated that Ayala told him that she was struck by Gonzales and Rivera. Vasquez stated that Ayala told him that she was punched by Delgado. These revelations cast doubt on the reliability of her statements. Descriptions of her demeanor and behavior by several witnesses cause further concern regarding her reliability.

Based on the evidence presented, we cannot prove beyond a reasonable doubt that any of the deputies in the aforementioned incident committed any unjustifiable criminal act. Therefore, prosecution in this matter is declined and this office will take no further action.